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Jim Beaver, The Founding Member Of This Law School

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moment there is any risk in doing so.” *Mentally Ill and the Law*, *supra* fn. 2, page 2.

Whether in class or in conversation, if you were exposed to Jim Beaver, then you were in the presence of a giant. I am honored to say that he was a very good friend. I am pleased to say that he was with us in our time. I proudly say that he was one of our finest, and I am desperately sad to say that now he is gone.

William F. Harvey

Carl M. Gray Professor of Law and Advocacy
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JIM BEAVER, THE FOUNDING MEMBER OF THIS LAW SCHOOL

Jim Beaver was the first UPS Law School faculty member. He joined the faculty while on leave as a *tenured faculty* member at the Indiana University School of Law at Indianapolis. He was the only member of the original law school faculty who had law school teaching *experience* let alone tenure at another institution. Despite the differences in experience and in age between Jim and the rest of the faculty—many of us were 30 years old or less—Jim treated us with respect and as fully equal colleagues. Although he periodically referred to us, and me in particular, as “being wet behind the ears,” a characterization to which he referred only a few months ago, he never pulled rank. Although he was the senior ranking faculty member, he considered everyone on the faculty his equal, in faculty meetings and elsewhere, and gave a full hearing to the ideas of his less experienced colleagues.

The first two years at the law school in particular were very difficult ones. Each of us taught three sections of a course. Instead of 300 students the first year, there were 475 the first day of class, and each of us taught all 475 students. There were no academic rules. The only committee to deal with matters such as admissions and hiring was a faculty committee of the whole. There were numerous faculty meetings, generally twice a week, every week, for approximately two years. They involved interminable wrangling over every possible issue from plus and minus grading to probation policy. When the going became particularly tough, Jim would inevitably opine: “No one ever said it would be easy.” Despite his strongly held views on many issues, Jim was a great compromiser. He always talked about “cutting out the horseplay” and “getting the job done.” When things became very difficult between the Dean and the junior faculty, Jim acted as a

mediator to bring harmony to what would have become a fractious institution.

Of all the teachers, Jim was undoubtedly the favorite of the students. He taught three sections of Civil Procedure and incorporated into the cases and rules he taught anecdotes about his own litigation practice in Chicago, Illinois with the firm of Kirkland and Ellis. While discussing motion practice at the trial court level, he would, in his own disarming way, tell how a lawyer who had a busy day and could not wait to argue a motion later in the day would slip a twenty dollar bill to the clerk of the court who would move the lawyer's case to the head of the docket. Or he would tell how, after trying a price fixing case involving a liquor distributor, he and some of his colleagues in the firm drank all the evidence. In one of his evening classes, a student thought Jim had taught the same case two nights in a row. He very excitedly went up to Jim to indicate that Jim had slipped and taught the same material twice. Jim said to him: "Mr. [So-and-So], I don't have very much to give, but what I've got you're going to get."

Although he greatly liked and enjoyed being around students, Jim was not averse to telling them what he thought they needed to hear. At the end of the first semester of the first year, grades came out and were very low. The students thought that the grades resulted from pressure to change grading practices. When he heard of the student reaction, Jim took time in each of his sections to tell the students that they had better, in his words, "shape up" and "get with the program" or they ought to get mops and brooms and look for jobs as janitors. This was something only Jim could say because only he commanded the necessary respect of the students. What was important was that he was willing to risk his relationship with the students for his colleagues and the good of the school.

In his first years, Jim played a particularly active role in faculty hiring, contacting his many acquaintances throughout academia trying to convince them to come to a fledgling law school. Jim held very strong political views and yet he did not let that affect his decisions in any respect in hiring or tenure decisions. He might characterize someone as a "Lefty" or a "Pinko," but he always voted for the person if he thought he or she deserved it on the merits. Not once did he attempt to influence the composition of the faculty along political or ideological lines.

Jim sought the best for the law school regardless of the perceptions of others, particularly those with administrative authority. Some faculty are especially deferential to a dean candidate; not Jim. He always asked dean candidates and deans whether they were the kind

who “pushed up” or “pushed down.” By pushing up he meant promoting the interests of the law school; by pushing down he meant knuckling under and subjugating the law school’s interest, generally to some other interest within the university. When you sat with Jim in interviews with an evasive or nonresponsive decanal candidate, you always knew what the candidate’s answer was by Jim’s response.

Jim not only did not fear deans, but also university presidents and boards of trustees. At one of the first Board of Visitor meetings, Jim read a bill of particulars criticizing what he saw as university action detrimental to the best interest of the law school. Although he received a great deal of criticism from the university and offered to return to Indiana, he never withdrew his remarks or refrained from speaking out in the future. Whether you thought he was right or wrong, Jim spoke unflinchingly for what he saw as the good of the law school. He kowtowed to no one.

Jim did a great deal in the first few years of the law school’s existence. As indicated above, he set the tone for the relationship among faculty that was and is nonhierarchical. Given the character of our school and its need to hire predominantly junior faculty, that was a significant contribution. Although he was a politician in the best sense of the word, he did not act politically, either in making decisions such as in hiring or tenure, or in how he approached academic issues. He did not engage in back door politicking. Rather he went to faculty meetings with his yellow legal pad and said what he thought was correct whether it offended those who agreed with or opposed him.

Finally and perhaps most significantly, he strongly defended academic freedom and faculty decisionmaking. Jim did not believe that the faculty should run the law school. He believed the dean and the university administration had important roles to play both in setting and implementing policy. But he did believe in faculty primacy in crucial academic areas. Jim was a scholar who believed in the university as it arose out of the middle ages in places like Bologna. To him, it was the faculty that decided what was taught, how it was to be taught, and who taught it. In the early days of the law school, there was a strong likelihood that this school would be a dean-run law school with the faculty here to do what the dean told it to do. For the first few years of the law school, Jim led the charge, sometimes almost single-handedly, in assuring that the faculty and not the dean determined academic matters. Had Jim not succeeded in leading the fight on that battle, this school would be a substantially different one than it is today, certainly not one that enjoys the stature and recognition that it does. Thanks to Jim this is a far better school, offering a

better education than had he not been here from the beginning. We had, and we have lost, a valuable educator and colleague.

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ECHO:
WORDS SPOKEN IN MEMORY OF JAMES BEAVER

I think it appropriate for me to begin with a brief recitation of the facts: Professor Beaver was born in the Midwest, he graduated first in his class at the University of Chicago School of Law; he spoke several languages, and he was a connoisseur of fine art, classical music, and conservative politics.

And yet, people still liked him.

Why? Because what matters are not the honors and achievements bestowed, but rather the spirit or essence of the person. Part of the reason I liked him was that he was different—perhaps one might even say eccentric. He was reminiscent of a captivating Dickens character like Pickwick or Micawber. He may have been white but he was not plain vanilla.

Maybe more importantly, he was different and he didn't try to hide that difference. He was a very content man. He seemed happy with so many parts of his life; but what struck me most was how much he loved his job.

There are two major components to being a law school professor: teaching and publishing. He enjoyed both components of the job and excelled at them as well. Teaching, of course, is merely another performance art, so his musical training prepared him well for the task. And while his publishing legacy is nearly complete, the legacy of his teaching is only beginning: two of the most recently elected State Supreme Court justices were students of Professor Beaver. So was a Vice-President of the United States, numerous law professors, television personalities, and thousands of equally successful but lesser known acolytes with more on the way.

As for publishing, Professor Beaver was born to write scholarly works. The truth is, he even spoke like a law review article, complete with footnotes.